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THE CONSTITUTION AND SCHEDULE

OF

THE PROVISIONAL GOVERNMENT

OF

THE TERRITORY OF ARIZONA,

AND THE PROCEEDINGS OF THE CONVENTION

HELD AT TUCSON.

TUCSON:

J. HOWARD WELLS, PUBLISHER.

1866.

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Published by order of the Constitutional Convention—assembled at Tucson, Arizona Territory, April 2, 1860.

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CONSTITUTIONAL CONVENTION.

The delegates elected to form a Provisional Constitution for Arizona, as per previous call, assembled in Tucson on Monday, the 2d day of April, 1860.

At 10 o'clock A. M, the Convention was called to order by J. Howard Wells of Tucson, who moved its temporary organization and the election of S. W. Cozzens, Esq., of Mesilla, as Chairman *pro tem.*, and G. H. Oury, Esq., as Secretary.

These gentlemen having been unanimously elected,

The Chairman declared the Convention convened, and in a few brief but pertinent remarks, stated the object for which the delegates had assembled.

On motion of Judge E. McGowan of Mesilla, a committee of five was appointed upon credentials.

The Chair appointed Messrs. McGowan of Mesilla, Wordsworth of Sonoita, Lucas of Mesilla, Wells of Tucson, and Neal of Gila City, as such committee.

On motion of J. D. Alden, Esq., of Tubac, the Committee on Credentials were also authorized to report upon a permanent organization.

On motion, a recess of half an hour was taken by the Convention, to allow the committee time to report.

The Convention met pursuant to adjournment, when the committee, through its chairman, submitted the following report:

Your committee having examined the credentials presented, beg leave to report the following persons entitled to seats as delegates in this Convention:

MESILLA—James A. Lucas, Ygnacio Orrantia, Raphael Ruelas, S. W. Cozzens, Edward McGowan, L S. Owens, S. G. Bean, T. J. Bull.

SANTA RITA DEL COBRE—Leonada Liqueras, T. J. Thibault.

LAS CRUCES—Frank DeRuyther, Samuel B. Ford.

DONA ANA—Pablo Melendres, Pedro Aguirre.

LA MESA—T. J. Miller, G. W. Putnam.

SANTA TOMAS—Ramon Sanchez.

PICACHO—Jose MaChavis.

AMOLES—Jose MaGarcia.

TUCSON—Wm. S. Oury, Col. Palatine Robinson, John Copron, J. Howard Wells.

ARIVACA—Rees Smith.

TUBAC—J. Dean Alden, R. M. Doss.

SONOITA—W. C. Wordsworth.

GILA CITY—B. F. Neal, Thos. J. Mastin.

We also beg leave to report, as permanent officers of this Convention—James A. Lucas, Esq , of Mesilla, as President; and Granville H. Oury, Esq., as Secretary.

S. W. Cozzens having retired, James A. Lucas was conducted to the chair, and addressed the Convention as follows:

Gentlemen of the Convention For the honor you have conferred, in electing me to preside over the deliberations of your honorable body, I feel deeply sensible and grateful. It is with no ordinary emotion I return to you my heartfelt thanks. There are others among you who, by age and experience in parliamentary matters, are far more able and worthy to fill the honorable position bestowed on me. My efforts, gentlemen, will be used to preside over your deliberations with impartiality and fairness; and to that end I ask your earnest co-operation and assistance.

We have assembled, gentlemen, on this occasion, to organize a Provisional Government for Arizona. The neglect of the General Government to heed our prayers and petitions—its refusal to grant us a Territorial organization, notwithstanding our application renewed year after year—the slight hopes of any favorable action from the present Congress of the United States in our behalf, compels us to look to ourselves, in our own defense. If Congress will do nothing for us, it becomes us, as freemen and American citizens, to act for ourselves. We would be menial to remain longer dormant in our present exposed and defenseless condition, without law or protection—and such a course would be suicidal to our best interests.

Our citizens cry aloud for protection. The varied interests of our Territory are paralyzed, through the insecurity to person and property existing at the present time. Crime stalks abroad in our midst, while our country is overrun by tribes of barbarous savages, who despoil our citizens of their hard-earned avails, murdering or carrying into captivity those who are weak and unprotected. This state of affairs should not longer exist. It is our duty to organize for ourselves a Government affording some protection for the future. It is useless to look to New Mexico!—a Government from which we have received only scorn and neglect—they have been regardless of our interests and necessities. For years we have been deprived of every right and privilege which, as American citizens we are entitled to; and it behooves us now—dissevered as we are from New Mexico, neglected by the Congress of the United States—to organize for ourselves a Government under which our lives will be protected, our property secured and the future growth and prosperity of the country realized. Let us go forward to the work like men; and, with economy, prudence and wisdom, our efforts will be crowned with prosperity and happiness.

Hoping that peace and harmony may prevail over the deliberations of this Convention, I again offer you my sincere and heartfelt thanks for the confidence shown by electing me your presiding officer.

Capt. John Donaldson presented his credentials as a delegate from Calabasas, which were received, and on motion he was accepted as a delegate from said Precinct.

On motion of Judge B. F. Neal of Gila City, the respective delegates were required to take the oath to support the Constitution of the United States, which was unanimously adopted.

On motion that the proceedings of this Convention should be governed by the rules and regulations as laid down in Jefferson's Manual, for governing the House of Representatives, same was adopted.

The oath was then administered by J. Howard Wells, Esq., Justice of the Peace. to the presiding officers and members.

On motion, adjourned till 2 o'clock P M

Convention met pursuant to adjournment When,

On motion of S. W Cozzens, a committee of seven was appointed to draft a Constitution for the Provisional Government of Arizona.

The Chair appointed the following named gentlemen as such committee: B F Neal, S. W Cozzens, Edward McGowan, Wm. S. Oury, Ygnacio Orrantia, T J. Miller and W C Wordsworth.

On motion, a recess of one hour was taken, to allow the committee time to report

Convention met pursuant to adjournment, and was called to order by the President.

Judge B. F. Neal, Chairman of the Committee on the Formation of a Constitution for Arizona, submitted the following report:

To the Hon. James A. Lucas, President of the Convention · Your committee, to whom was referred the Constitution for the Provisional Government of the Territory of Arizona, have had the same under consideration, and respectfully beg leave to submit the accompaning Constitution for your deliberation a d adoption:

It was moved and seconded that the report of the committee be accepted, and that the Convention proceed to vote upon the Constitution *ad seriatim.*

On motion, T. M. Turner Esq. of Tubac, was appointed as Assistant Secretary.

G. W. Putnam, proxy for Juan Romero, La Mesa, having appeared, was duly sworn in, and took his seat

The Constitution was now taken up, section by section. The Preamble having been read, a motion was made that it be adopted.

After considerable debate, the ayes and noes were called on the adoption of the Preamble, and resulted—ayes, 25; noes, 2. Messrs. Alden, Wordsworth and Doss were excused from voting as their names were called.

The Preamble having been adopted, on motion the first section of the Constitution was taken up. On being read,

A motion was made that the Convention do now adjourn till Tuesday morning, at 9 o'clock, which was adopted.

Second Day's Proceedings.

MORNING SESSION.

The Convention met pursuant to adjournment, at 9 o'clock A. M.

The roll of delegates having been called, and a quorum being present, the Convention was declared duly opened for business.

The minutes of the first days proceeding having been read, on motion they were declared adopted.

S. W. Cozzens submitted the following motion, which was adopted:

That the vote on the adoption of the Preamble be re-considered, and that the Preamble and Constitution be re-committed to the original committee.

On motion, the Convention took a recess for a quarter of an hour.

Convention met pursuant to adjournment, and was called to order by the President.

B. F. Neal, Chairman of the Committee on Preamble and Constitution, reported the Constitution with sundry amendments.

The report of the committee was accepted, and the Convention proceeded to vote on the adoption of the same, section by section.

The question being on the adoption of the Preamble as amended, the ayes and noes were called.

Rees Smith, on motion, was excused; on a reconsideration of the vote, it was refused him. After a few remarks, in which he defined his position, he voted in the affirmative.

Messrs. Alden, Donaldson and Wordsworth, explained their votes as their names were called.

The vote having been completed, resulted as follow: ayes, 29; noes, 1.

Whereupon the Preamble was declared adopted.

The Constitution having been voted upon, section by section, and sundry amendments incorporated, on motion it was engrossed for a third reading, and finally passed.

On motion, the rules were suspended and the Constitution read by its title.

The question now being on the adoption of the Constitution, the ayes and noes were called, which resulted as follow: ayes, 28; noes, 1. Capt. John Donaldson voting in the negative.

On motion of Mr. Rees Smith, the Convention agreed to go into an election of Governor, under the Constitution.

Dr. L. S. Owings of Mesilla, was nominated for the office of Governor. No other nomination being made, the Convention proceeded to ballot, which resulted as follow: Dr. L. S. Owings, 26; 2, not voting; 3, absent.

After the enthusiasm had subsided, on the announcement of the vote, the Governor elect, in a few brief remarks, returned his warmest thanks to the gentlemen of the Convention, for the distinguished honor conferred on him, and promised at an early day to give his views at length on the policy which should govern him in the discharge of his duties.

A motion was made that the Convention do now adjourn till 7 o'clock P. M., which was adopted.

EVENING SESSION.

Convention met at 7 o'clock, pursuant to adjournment, and was called to order by the President.

On motion of S. W. Cozzens, it was resolved to appoint a Committee on County Lines and Boundaries. The Chair appointed Messrs. Mastin, Capron, Miller, Doss and McGowan, as such Committee.

On motion, the Chair appointed Messrs. Alden, Wells and Oury, a Committee on Enrolled Bills.

J. Howard Wells asked leave, being unavoidably detained from the session of the Convention in the afternoon, now to record his vote in favor of the Constitution as adopted; also, to record his vote for Dr. L. S. Owings for Governor. Leave was unanimously granted.

On motion, the Committe on Enrolled Bills was empowered to employ a clerk.

On motion, the Convention adjourned till Wednesday morning, at 11 o'clock.

Third Day's Proceedings.

MORNING SESSION.

Convention met pursuant to adjournment—roll called. On motion the reading of Tuesday's proceedings was dispensed with.

The reports of committees were then called for.

Judge Neal, Chairman of the Committee on the Constitution and Schedule, reported progress, and asked further time for the completion of the Schedule. Granted.

Mr. Martin from the Committee on County Lines and Boundaries, submitted a report.

[The substance of the report, in an amended form, was afterward incorporated in the Schedule, and is therefore omitted here]

The Sergeant-at-Arms being absent, the President appointed F. G. Ake to fill the office *pro tem.*

On motion, adjourned till 2 o'clock P. M.

AFTERNOON SESSION.

Convention met, pursuant to adjournment, at 2 o'clock P, M.

Mr. Cozzens stated that Capt. R. S. Ewell, U. S. A., was present, and moved that he be invited to a seat within the bar of the House. Carried.

Capt. J. Dean Alden from the Committee on Enrollment, reported that they had secured the services of Mr. N. King, who had kindly copied the Constitution in a shape suitable for enrollment. The report was accepted, and on motion, a vote of thanks was tendered Mr. King, and he was invited to a seat within the bar of the House.

Mr. Secretary Oury, Chairman of the Committee on Printing, submitted the following report:

TUESDAY, April 3, 1860.

To the Hon James A. Lucas, President of the Convention:

The committee, to whom was referred the printing of the Constitution and the proceedings of this Convention, have had the same under consideration; and, after consultation with the proprietor of THE ARIZONIAN, find that two hundred and fifty copies printed in English and one hundred and twenty-five copies in Spanish, will cost $275; and that five hundred copies alone in English, will cost $225—which appears to your committee too extravagant, and consequently they have made no arrangement for the performance of the service. All of which is respectfully submitted.

G. H. OURY, Chairman.

On motion, the report was accepted and the committee discharged from further consideration of the subject.

On motion, the whole subject was referred to a committee consisting of Messrs. Owings and DeRuyther.

R. F. Neal from the Standing Committee, reported a Schedule to

accompany the Constitution, which was accepted, and the Convention proceeded to consider the same, section by section.

On motion of Capt. J. Dean Alden, the section entitled "Counties," was first considered.

The Secretary having read the section,

Capt. Alden moved to amend by inserting the name of "Ewell," to the county comprising the territory between the Chirrichua Mountains and the longitudinal line proposed as the western boundary of the county, in place of "Santa Rita," as called in the report.

The amendment was adopted by an unanimous vote.

The Convention then proceeded to consider the Schedule, commencing at section 1.

At the request of the Mexican delegates, Mr. T. J. Miller was appointed to interpret to them the subject matter of each section as considered.

Pending the consideration of the Schedule, the Convention adjourned till 7 o'clock P. M.

EVENING SESSION.

Convention met at 7 o'clock, pursuant to adjournment.

The consideration of the Schedule was continued.

The whole Schedule having been voted upon, section by section, and sundry amendments incorporated, on motion it was engrossed for a third reading, and finally passed.

On motion, the rules were suspended, and the Schedule read by its title. The question now being on the adoption of the Schedule, the ayes and noes were called, when it resulted as follow: Number of votes cast, 27; ayes, 26; noes, 1.

On motion, the Schedule was committed to the Committee of Enrollment, for the purpose of being enrolled.

On motion, adjourned till Thursday morning at 9 o'clock.

Fourth Day's Proceedings.

MORNING SESSION.

The Convention met, pursuant to adjournment Thursday morning at 9 o'clock. Roll called, and a quorum being present, the Convention proceeded to business.

The minutes of second and third days' proceedings were read, and after several slight amendments, were approved.

Judge McGowan submitted the following resolutions, which were adopted:

Resolved, That we heartily approve of the pure, wise, and patriotic administration of our venerable President, JAMES BUCHANAN, fully believing that his only aim in carrying out his Government, has been for the good of the whole country. And if some of the judicious measures of the administration have failed to become effective, it has been caused by the opposition of factious demagogues, whose only desire has been for their own aggrandisement and political preferment; and not for the public welfare.

Resolved, That the course pursued by our Delegate to Congress—the Hon. SYLVESTER MOWRY, and his indefatigable efforts to obtain for Arizona a Territorial organization, deserves the especial trust and confidence of the people of this Territory, and that a vote of thanks be tendered to him by the people, through their Delegates elect to this Convention, for the creditable manner in which he has discharged the obligations of his position, with the request that the same shall be continued, in our behalf.

Resolved, That in Capt. R. S. EWELL, of Fort Buchanan, the people of Arizona have found a devoted friend, and the Government a distinguished officer—one who is ever ready to pursue and bring to justice the savage robber and destroyer of human life, or to rescue the helpless captive. He has the heartfelt thanks of the people of Arizona, and we trust that Government will not be tardy in bestowing upon a meritorious soldier some evidence of its approbation, commensurate with his efficient services.

Resolved, That the Commanding and other Officers, stationed at the several Military Posts in Arizona, have faithfully discharged their duties, and have performed all that the limited means within their power would permit, for the suppression of the Indian forays, so frequent and destructive to the lives and interests of the settlers of the Territory.

Resolved, That the thanks of this Convention are due and hereby tendered to the Hon. J. A. LUCAS, for the very able, impartial, and dignified manner, he has discharged the duties of President of this Convention.

Resolved, That the thanks of this Convention are also tendered to G. H. OURY and T. M. TURNER, Esqs., for the efficient manner they have discharged the duties of Secretaries to the Convention.

Resolved, That the thanks of this Convention, are due to Wm. H. BURKE, Esq. Serjeant-at-Arms, and JERRY ROBINSON, Esq., Doorkeeper, for the very efficient manner they have discharged the duties of their offices.

A motion to adjourn was negatived.

On motion, the Convention took a recess for five minutes.

Convention met pursuant to adjournment.

Mr. Cozzens submitted the following resolution, which was adopted:

Be it resolved, By the delegates of the people of Arizona, in Convention assembled, that we earnestly and particularly protest against the removal of any of the United States troops now stationed in Arizona, or the breaking up of any United States military post now established in said Territory; and particularly do we protest against the removal of Fort Fillmore, upon the Rio Grande, and Fort Buchanan on the head of the Sonoita, as the citizens of those portions of the Territory are entirely without protection, and exposed to the depredations of hostile tribes of Indians who infest that section of country.

On motion of Judge Neal, a committee of three was appointed to wait upon the Governor elect, and inform him that the Convention was now ready to administer to him the oath of office.

The Committee consisted of Messrs. Neal, McGowan and Donaldson.

On motion, the name of Mr. Frank DeRuther was added to the committee.

The committee appeared with Dr. L. S. Owings, the Governor elect, who was conducted within the bar of the House, when the oath of office, as prescribed by the Schedule, was duly administered by J. Howard Wells, Esq., Justice of the Peace.

The Governor then delivered the following—

INAUGURAL ADDRESS.

Mr. President and Gentlemen of the Convention:

Having taken the oath prescribed by the Constitution, I deem it necessary, before entering upon the duties devolving on me, as the Executive officer of the Provisional Government, just created, to present to this Convention, and to my fellow citizens at large, some of the views that I entertain and the policy which shall govern my actions in endeavoring to carry into effect the administration of the new Territorial Government. Previous to this however, I cannot refrain from tendering to you my heartfelt thanks, for the honor you have so generously conferred upon me, in selecting me as the chief Executive of the Provisional Government—the marks of approbation, which I have received at your hands is very flattering to my feelings indeed, and I cannot at this moment, find words, in the vocabulary of my language, strong enough to convey to you my sincere gratitude; if, however, a faithful discharge of the duties of the office pertaining to the Gubernatorial chair, will be any recompense for the honor you have with one spirit so unanimously and generously conferred on me, I pledge my sacred honor it shall be done to the strict letter of that Constitution under which we are acting, and with a proper respect to the laws of the United States. In carrying out these measures, however, should I unfortunately err, and to do so is human—you must attribute these errors to the head and not to the heart.

There were probably many reasons why I should not have accepted the office of Governor, but there is one very cogent one which has mainly prompted me in so doing, and that is, my just conviction, that every individual, however exalted or humble his position in life may be, when called upon by his fellow citizens, to serve them in a public capacity, he should cheerfully accede to their wishes, even should the sacrifice of private interests be great.

I am truly embarrassed in the fear, that my abilities may not be equal to the onerous duties imposed upon me, but with your co-operation and that of my fellow citizens, and under the influence and direction of Divine Providence, I trust I may be enabled to form, even in this chaotic region, a government calculated to insure protection, cause the Territory to prosper and render the people happy.

In the organization of a government, like the one we have just established, there are numerous difficulties to contend with, and many serious obstacles to surmount before we can mature things for the best interests of the Territory and meet the approbation of all of our fellow citizens—I shall, however, trusting in your sound judgment and wise counsel, enter upon the discharge of the duties of office, with a degree of confidence.

I harbor no doubts, as to the feasibility of the project for establishing a Provisional Government, nor do I believe in adopting a Constitution to guide us in administering the laws of said government, that we in any way infringe upon or conflict with that sacred instrument, the Constitution of the United States.

It is well known to you, gentlemen, that we have as yet little or no statis-

real information, by which we can arrive at any data, in regard to the fiscal affairs of the Provisional Government—no direct tax can be levied upon the people—and the Mesilla valley and the country immediately surrounding it, are the only places that have heretofore paid merchants and pedlars licenses, etc. These licenses from all sources, amounted in the aggregate, yearly, to between eight and nine thousand dollars; this sum was payable into the treasury of New Mexico, under our present organization it will be paid into the treasury of our Provisional Government, and it will go far in helping to liquidate the expenses of the officers, printing, etc., of the new government. So soon as the County elections are held, and Probate Judges, and Sheriffs are duly installed, in the several Counties in the Territory, we shall probably be able to arrive at a correct conclusion, as what sum can be raised annually, to defray the expenses of the government. From all the information I can gather from those who are best acquainted with the facts, by pursuing a prudent and an economical course—the revenues which will accrue to the Government, under the old system, the licenses imposed by the statutes of New Mexico, and which would have been assessed in the western portion of the Territory, had the new County been organized—will be amply sufficient to meet all the wants of the Government.

The main cause, for the non-collection of licenses by the officers of the Territory of New Mexico, in the western portion of the Territory of Arizona, can be attributed to the fact, that this portion of Arizona, is far removed from Santa Fe, (Tucson being over 600 miles, and Arizona and Gila cities 900 miles from the capital of New Mexico) the location of a government, which failed to afford us any protection, or to enact the necessary laws to enable us at least to have some show of a form of government, under which we, civilized as we claim to be, could peaceably exist. The County of Dona Ana comprised the whole of the Gadsden purchase, and two towns on the east side of the Rio Grande—Las Cruces and Dona Ana, containing a population of four thousand—and the entire county containg an estimated population of 11,000 souls—and my opinion is, gentlemen, when the census of the Territory shall have been taken, it will far exceed that number. This same county, covering an area of country from the extreme east to the western boundary, of 900 miles, and in breadth, from 200 to 300 miles, and in population 11,000, was allowed *one* Senator and *one* Representative in the legislative council, which convened yearly at Santa Fe—a representation probably, not equal to the smallest county in the New Mexican Territory Why, gentlemen, the number of inhabitants to day in the Mesilla valley, far outnumber those of the ancient and far-famed City of Santa Fe. Arizona, to her honor be it said, does not avail herself of this New Mexican *liberality* by sending any one to Santa Fe to represent her; but we have sent an honorable gentleman (Mr. Mowry) to Washington to represent our necessities, and if possible, to procure for us a Territorial Government at the hands of Congress; we still have hopes, in the justness of our cause, that our Representative may yet succeed in getting an organization even before the adjournment of the present Congress, "a consummation most devotely to be wished for," by the people of this neglected country. Until that important epoch in our history arrives, let us, Mr. President and gentlemen of the Convention, adopt for our guidance the motto of the English Kings: "*Dieu et mon droit*"—God and and my right.

I am reminded, by a friend, that a rumor was rife some time last winter, that the New Mexican Legislature had passed a law creating a new county, somewhere in the western section of the Territory. The metes and bounds of this new county no one in Arizona has ever been made acquainted with; nor is it requisite that they should be; for the people did not ask this favor at the hands of the Legislature then sitting at Santa Fe, and consequently never intended to organize any more counties of their creating. It is not my province, gentlemen, neither is it your desire I know, to detract from the New

Mexican people any honor that properly belongs to them—far from it. At the same time, while I am willing to "render unto Cæsar the things which are Cæsar's," I must do justice to the people of our own Territory. The people of New Mexico have no feelings in common with the people of Arizona, and *vice versa*—our habits, tastes and pursuits are different; and while we desire to be upon friendly terms with them socially in our Territorial matters, for the future, all we ask—in order to cement the bond of friendship—*is to be let alone;* for we have the presumption to think that we have arrived at that stage of the proceedings in our Territorial affairs, which forces us to attempt, at least, to manage for ourselves.

So soon as the Territorial Legislature shall meet, I will embrace the opportunity of calling its attention to the propriety of a geological survey of the Territory. The principal object should be to ascertain and make known, abroad, the immense wealth of our Territory in minerals, and in agricultural and grazing resources, with a view to their full development. These objects are eminently practicable, and at a very trifling expense this information can be obtained. The publication of such a report, showing as it no doubt would, the inexhaustible mineral wealth of the Territory, its fine grazing properties, and its beautiful valleys adapted for agricultural purposes, capable of furnishing, to a large number of artisans and laborers, employment in our silver, gold and copper mines, and homes for hundreds of sturdy emigrants and their families; such a report I am confident, gentlemen, made by one thoroughly acquainted with the sciences of geology and mineralogy—would soon rapidly increase our population, and would add to the immensely cumulative testimony why Congress should speedily give us a Territorial Government.

It is well known to you gentlemen, that the Gadsden purchase, which comprises the vast majority of the Territory of Arizona, was at the time of the transfer by Mexico, to the United States, inhabited chiefly by wild and savage tribes of Indians—the roving, thieving and murdering Apaches—who existed mainly by forays into Sonora to steal horses and cattle. Some time since a treaty was made by some of the United States military officers, and others attached to the Indian Agency, and the chiefs of these savage tribes, who agreed in their stipulations that no further depredations should be committed by them upon the residents of Arizona—the officers, on the part of the United States agreeing to furnish the various tribes, farming implements, seeds for planting, "*manta*" to cover their nakedness, and trinkets and baubles, such as the Indian delights to display on his person. On the part of the Government officers these treaty stipulations were sacredly kept, the Indians receiving all that was promised them. But did they, gentlemen, perform their part of the contract? Far from it. It is true, for a few months after the treaty was made, we heard nothing of Apache depredations within our borders—except occasionally a horse, a mule, or a beef having been stolen, or their having made a requisition upon the Overland Mail stations for flour, corn, etc., which for the sake of peace, in every instance their demands were complied with, and their petty thefts overlooked. But recently, emboldened by success, the instincts of their savage nature have predominated; they have driven off our stock, murdered our citizens in cold blood, and forced our women and children into captivity.

Gentlemen, if we expect to live in Arizona and prosper, we must teach the savages a salutary lesson—one that will be lasting and effective—no more presents and worthless treaties. They have commenced the strife and wish for war. War, be it then—war to the knife, and the knife to the hilt.

By virtue of the office of Governor, I am Commander-in-chief of the citizen soldiery of the Territory. I shall therefore pursue that course of policy best calculated to give protection to life and property, and as speedily as surrounding circumstances will permit, appoint the most efficient officers, and organize the militia of the Territory. Believing, from past experience, however,

that volunteers will be the most effective for frontier service, I shall, as soon as arrangements can be made for their equipment and supplies, order out several Ranging Companies, and detail them into service until the Indians are thoroughly chastised and our Indian border troubles are quieted.

There are other subjects that I might touch upon at this time, but believing it more appropriate for some future day, I shall not longer occupy the time of the Convention by extending my remarks. In conclusion Mr. President and gentlemen of the Convention, allow me again to return you my thanks for the distinguished honor you have conferred on me, in selecting me as your chief Executive officer, and for the courteous attention and politeness you have displayed toward me, during my poor effort at speech making.

At the conclusion of his remarks His Excellency announced the appointment of James A. Lucas as Secretary of the Territory.

On motion of Judge McGowan, it was resolved, that when this Convention adjourns, it shall adjourn to meet at 4 o'clock P. M.

No further business being presented, on motion, adjourned.

AFTERNOON SESSION.

Convention met at 4 o'clock, pursuant to adjournment.

Mr. Miller submitted the following resolution, which was adopted:

Resolved, That the Governor be required to send a copy of the Constitution to the President of the United States, to the heads of Departments, to the members of the Committee on Territories of the two Houses, and also to the Governors of the different States and Territories; and if deemed expedient, the Governor shall have power to send a special messenger to the President. *Provided*, that the same shall be done without expense to the Government.

Governor Owings, Chairman of the Committee on Printing, reported that the proprietor of THE ARIZONIAN would print the copies of the Constitution and Proceedings required by the Convention, at the following rates: For 250 copies in English and 150 copies in Spanish, $250.

The report was accepted, and on motion the committee was authorized to contract for the same at the rates agreed upon.

On motion of J. Howard Wells, a vote of thanks was tendered to Senor Augustine Ainsa, who had kindly offered to translate the Constitution into Spanish, for publication, free of charge.

The Committee on Enrolled Constitution made a verbal report—that they had attended to their duty, and reported the Constitution and Schedule on the table, ready for signatures. The report of the committee was accepted, and the members of the Convention proceeded to sign the paper.

Capt. John Donaldson presented the following protest, which, by vote of the House, was ordered to be spread on the minutes:

I wish to enter my protest against the Constitution and Schedule, and beg leave that the same be entered upon the record of this Convention.

JNO. DONALDSON.

The signing of the Constitution having been completed,
On motion, Convention adjourned till 7 o'clock P. M.

EVENING SESSION.

Convention met at 7 o'clock, pursuant to adjournment.

Mr. Cozzens moved the adoption of the following resolution:

Resolved, That Mr. Wordsworth be requested to furnish a copy of his re-

marks, on the adoption of the Provisional Constitution, for publication with the proceedings.

Capt. J. Dean Alden moved the adoption of the following resolution, which was unanimously passed:

Resolved, That the thanks of the members of this Convention be, and are hereby tendered to the Hon. Benj. F. Neal, for the able assistance he has rendered the Convention by his advice, and the laborious duties he has personally performed.

Gov. L. S. Owings presented the following letter, written to the Convention by Samuel G. Bean, which was ordered to be spread on the minutes:

MESILLA, March 28, 1860.

To the Delegates of the General Convention, to be held at Tucson, for the purpose of forming a Povisional Government for Arizona, on the first Monday in April, 1860:

GENTLEMEN: Having the honor to be a delegate from this place, I regret very much my inability to attend on so important an occasion. I have chosen my friend James A. Lucas to represent my views, and he is hereby fully authorized to act for me in the Convention. The project of forming a Provisional Government for Arizona I have only to say, meets my hearty concurrence; and though absent, I am with you, heart and hand.

I will stand to the Constitution you may adopt, and support it through "a sea of troubles." My most ardent desire is to see the consummation of this work, in my conception so nobly begun; and I assure you I have not "weakened," and that there is no back out in me on the subject.

I am, very respectfully, your obedient servant,

SAMUEL G. BEAN.

After the reading of the letter, His Excellency announced the appointment of military officials.

Judge McGowan moved the adoption of the following resolution:

Resolved, That Messrs. Wordsworth and Doss be earnestly requested to accept the positions to which they have been nominated by the Governor.

Mr. Donaldson asked to have it stated on the minutes that he declined voting.

The motion was carried by acclamation.

The following resolution, submitted by Judge McGowan, was adopted:

Resolved, That the Treasurer be directed to pay for the printing authorized by the Convention, out of the first moneys which shall come into the Treasury.

The object for which the Convention was called having been accomplished, and no further business being brought before the body, the Convention adjourned *sine die*.

JAMES A. LUCAS, President.

GRANVILLE H. OURY, }
T. M. TURNER, } Secretaries.

PROVISIONAL CONSTITUTION.

We, the people of Arizona, in order to form a government, establish justice, insure domestic tranquility and provide for the common defense, do ordain and establish this Constitution: *Provided*, that the same shall remain in force until Congress shall organize a Territorial Government, and no longer.

ARTICLE I.

SECTION 1. That there is, shall be, and hereby is created for Arizona, a Provisional Government for all that part of the Territory of the United States included within the following limits, to wit: Beginning on the Colorado, at the parallel of north latitude thirty-three degrees forty minutes; thence with said parallel to the eastern boundary of New Mexico; thence with said boundary until it intersects the line of Texas; thence with said line to the Rio Grande, and so on to the line of Mexico, on said river, as fixed by the treaty of eighteen hundred and fifty-four; thence with the boundary line established by said treaty between the United States and Mexico, to the Colorado; thence up the Colorado to the place of beginning. Which said Government shall be divided into three separate and distinct departments, viz.: Legislative, Executive and Judicial.

SEC. 2. The legislative power shall be vested in a Senate and House of Representatives.

SEC. 3. The Senate shall consist of nine members. The House of Representatives shall consist of eighteen members—each of which members shall hold their term of office for one year.

SEC. 4. The first Legislature of Arizona shall be convened by the Governor, at such time and place as this Convention shall decide—which said Convention shall also make an apportionment giving to each portion of the Territory representation in the ratio of its population, as nearly as may be—Indians excepted.

SEC. 5. All members of the Senate and House of Representatives shall be *bona fide* citizens of the county or District they may represent.

SEC. 6. An election for members of the Senate and House of Representatives shall be ordered by the Governor at least thirty days before the first day of the first session of the said Legislature, and those persons having the highest number of votes in their respective districts, for said offices, shall be by the Governor declared duly elected as mem-

bers of the Senate and House of Representatives for the term of one year; and the persons, so declared duly elected, shall meet as hereinbefore prescribed by the Governor.

SEC. 7. The time, place and manner of holding and conducting all elections and apportioning the representation in the several counties or districts, to the Senate and House of Representatives, shall in future be prescribed by law, as well as the time of convening the Legislature. *Provided*, that no session shall continue longer than thirty days. *Provided further*, that the Governor, in case of necessity, shall have power to call an extra session.

SEC. 8. Every white male person who shall have attained the age of twenty-one years, and who shall be a citizen of the United States and shall have resided in the Territory of Arizona three months next preceding an election, and the last thirty days within the county, city or town, in which he offers to vote, (Indians excepted,) shall be deemed a qualified elector; and every person who shall have resided six months in said Territory, shall be eligible to any office in the gift of the people. *Provided*, that no soldier, seaman or mariner, in the army or navy of the United States, shall be entitled to vote at any election created by this Constitution.

SEC. 9. The legislative power shall extend to all rightful subjects of legislation consistent with the provisions of the Constitution of the United States, and not inconsistent with the provisions of this Constitution.

SEC. 10. Immediately after the adjournment of this Convention, the Governor of the Provisional Government of the Territory of Arizona shall issue his Proclamation, directing and requiring elections to be holden in all the counties of this Territory, on the first Monday in May, A. D. 1860, for all county officers created by this constitution, to be elected by the people, which said elections shall be conducted by law.

ARTICLE II.

SEC. 1. The Executive authority of this Territory shall be vested in a Governor, who shall be styled the Governor of the Provisional Government of Arizona.

SEC. 2. The first Governor of this Territory shall be elected by this Convention, and hold his office for one year; and all subsequent elections for Governor shall be by the people, in such manner and at such times as the Legislature shall prescribe.

SEC. 3. The Governor shall be a resident of this Territory; shall approve all laws passed by the Legislature, before they shall go into effect; shall be Commander-in-Chief of the Militia of the Territory; may grant pardons for offenses against the laws of the Territory; shall commission all officers who shall be appointed or elected to office under the laws of the Territory, and shall see that the laws of the Provisional Government are duly executed.

SEC. 4. In case of the death, absence or inability, of the Governor to act, the Lieutenant Governor shall be Governor *ex officio*, during such absence or inability; or in case of death, for the unexpired term;

he shall preside over the Senate, but shall not vote on any question unless the Senate be equally divided, and shall receive during the session of the Senate the same pay, including mileage, which is allowed members of the Senate. And in the further event of the death or inability of the Lieutenant Governor, the duties of the Governor shall devolve on the Secretary of the Territory.

SEC. 5. The Governor shall have power, by and with the advice and consent of the Senate, to appoint a Lieutenant Governor, a Secretary of the Territory, a Controller, a Treasurer and a Marshal, three District Judges and an Attorney General.

SEC. 6. The Secretary shall attest all of the official acts of the Governor; and shall also keep a correct record of all the laws, resolutions, etc., passed by the Legislature—together with a copy of the proceedings of the Legislative Assembly—on file in his office; he shall also have the care and custody of the seal of the Territory.

SEC. 7. The Controller shall audit all the accounts of the Territory, and shall draw warrants upon the Treasury for all moneys to pay the necessary expenditure for the Provisional Government and for the salaries of the Territorial officers; he shall keep a correct and true record of all accounts audited by him and the orders drawn by him on the Territorial Treasury. His books shall be open to inspection at all times, and he shall give a bond, payable to the people of the Provisional Government of Arizona, in such sum as may hereafter be provided by law, conditioned for the faithful discharge of the duties of his office.

SEC. 8. The Treasurer shall receive all fines that may be imposed by the courts of the Territory, receive all licenses and other revenues accruing to the Territory, shall pay all orders that may be drawn upon him by the Controller, by virtue of his office; shall keep a set of books in which these accounts shall be entered, which books shall be open for the inspection of the public at all times; shall make a balance sheet showing the exact state of the finances of the Territory quarterly, which balance sheet shall be submitted to the Governor for his inspection, and shall be by him published in some newspaper in the Territory; shall give a bond to the people of the Territory of Arizona, with four sureties, in such sum as shall hereinafter be established by law, conditioned for the faithful discharge of the duties of his office; and shall receive, as salary, two per cent. on all the moneys received by him, and no other compensation.

SEC. 9. The Marshal shall have jurisdiction in all counties or districts in the Territory; shall serve all processes that may be placed in his hands emanating from the Supreme Court; shall receive the same fees now allowed United States Marshal for services in New Mexico, and shall give a bond with proper sureties, to the people of Arizona, in such sum as shall hereafter be established by law, conditioned for the faithful discharge of his duties.

SEC. 10. All bonds given by Territorial officers shall be approved by the Governor, until otherwise ordered by law.

ARTICLE III.

SEC. 1. The Judicial power of this Government shall be vested in a Supreme Court, three District Courts, Probate Courts, and Alcaldes or Justices of the Peace; and the Legislature may, from time to time, create municipal and other inferior courts, as the wants of the people may require.

SEC. 2. The three District Judges shall constitute the Supreme Court, which shall hold one session in each year, at the seat of Government of the Territory.

SEC. 3. The three District Judges shall be appointed by the Governor, for the term of two years; one of their number shall be appointed by the said Governor, Chief Justice of the Territory, whose duty it shall be to preside at all sessions of the Supreme Court. The powers and duties which are prescribed to govern the Supreme and District Courts, by the laws of New Mexico, are hereby declared to govern the Supreme and District Courts of this Territory, until altered or amended by the Legislature of this Territory.

SEC. 4. The said District Judges shall receive, as compensation for their services, such sum as shall hereafter be established by law.

SEC. 5. The District Judges shall hold two terms of court every year, in each county in their district, which terms shall continue in session until the business before the court be disposed of, until otherwise provided by law.

SEC. 6. The Governor shall appoint an Attorney General for the Territory, whose duty it shall be to prosecute all criminal offenses arising under the laws of the Territory, in the District and Supreme Courts, and shall receive such salary as shall hereafter be established by law, and the same fees allowed the Attorney General by the laws of New Mexico, and whose term of office shall be coequal with that of the Judges of the District Courts.

SEC. 7. Special terms may be called by either of the three District Judges when, in their opinion, the ends of Justice will be subserved.

SEC. 8. The county offices, including Probate Judges, Justices of the Peace, Sheriffs, Constables, etc., as now provided for by the laws of New Mexico, together with their fees of office shall, and the same are hereby declared to govern the elections, proceedures, etc. of the said county offices in this Territory—except that the Probate Judges of the different counties shall receive the fees formerly allowed said Judges by the laws of New Mexico, instead of a salary, as now provided.

SEC. 9. All the general laws, both Civil and Criminal Codes of practice, and all laws applicable to this Territory not inconsistent with the Constitution now in force in the Territory of New Mexico, be, and the same are hereby declared to be in full force and effect in this, the Territory of Arizona. *Provided*, the Legislature shall have no power to levy any direct tax upon the people.

SCHEDULE.

SECTION 1. Members of the Legislature and all officers, before they enter upon the duties of their offices, shall take the following oath or affirmation:

I, A. B——, do solemnly swear (or affirm) that I will faithfully discharge and perform all the duties incumbent on me, as ——— of the Territory of Arizona, according to the best of my skill and ability, agreeably to the Constitution and laws of the United States and of this Territory.

SEC. 2. The first session of the Legislature of the Provisional Government of the Territory of Arizona shall be holden on the first Monday in March, A. D. 1861, at Tucson, and thereafter, annually, at such time and place as may be designated by law. The members of the Legislature shall each receive five dollars per day during the time they may be in session, and fifteen cents a mile in going to and from the Seat of Government.

JUDICIAL DEPARTMENT.

SECTION 1. All Judges of the Supreme and District Courts shall, by virtue of their offices, be conservators of the peace throughout the Territory. The style of all writs and processes shall be, "The Provisional Government of the Territory of Arizona." All prosecutions shall be carried on in the name and by the authority of the Provisional Government of Arizona.

JUDICIAL DISTRICTS.

SECTION 1. The Judicial Districts of the Territory of Arizona shall be divided as follow, viz.: The following named counties shall comprise the First Judicial District—Dona Ana and La Mesilla. The county of Ewell shall compose the Second Judicial District. The county of Castle Dome shall constitute the Third Judicial District.

SEC. 2. The District Courts of the First Judicial District shall be holden on the first Mondays of June and December, in the county of

Dona Ana; in the county of La Mesilla, on the second Mondays of July and December. The District Court of the Second Judicial District shall be holden on the first Mondays of March and September. The District Court of the Third Judicial District shall be holden on the third Mondays of May and October.

SEC. 3. The Supreme and District Judges shall receive each a salary of fifteen hundred dollars per annum, payable quarterly, and fifteen cents per mile to and from attending on the Court, until otherwise provided by the law.

SEC. 4. Each Dictrict Judge shall have power to appoint, for his Judicial District, a clerk who shall be *ex officio* clerk of the Probate Court of the county in which the District Court is held. He shall be a resident of the district, or county for which he has been appointed, and shall receive the same fees and emoluments as are now allowed by law to the clerk of the Supreme Courts of the Territory of New Mexico. He shall give a bond in the sum of one thousand dollars, to be approved by the District Judge, for the faithful performance of his duties.

SEC. 5. That no inconvenience may arise from a change of Government, it is declared that all processes which shall be issued in the name of the Territory of New Mexico prior to the organization of a Provisional Government under this Constitution, shall be as valid as if issued in the name of the Provisional Government of Arizona.

SEC. 6. The validity of all bonds and recognizances executed in conformity with the laws of New Mexico, shall not be impaired by the change of government; but may be sued for and recovered in the name of the Provisional Government of the Territory of Arizona; and all criminal prosecutions or penal actions, which shall have arisen prior to the organization of a Provisional Government under this Constitution, in any of the courts of the Territory of New Mexico, shall be prosecuted to judgment and execution in the name of the Provisional Government of the Territory of Arizona. All suits at law and equity which may be pending in any of the courts of New Mexico, prior to the organization of this Government under this Constitution, shall be transferred to the proper court of this Territory, which shall have jurisdiction of the subject matter thereof.

OFFICERS.

SECTION I. The Attorney General shall receive a salary of one thousand dollars per annum and such fees as are established by law, payable quarterly.

SEC. 2. The Governor shall have power to appoint, for each Judicial District a suitable person to act as District Attorney; he shall be a resident of the district for which he has been appointed, and shall be clothed with the same powers and receive the same compensation for his services, the same fees and emoluments of office, as are now allowed by law to Circuit Attorneys in the Territory of New Mexico.

SEC. 3. The Secretary of State shall receive, as a compensation for

his services, as follow, to wit: Two dollars for every certificate and seal, and such other fees as may be established by law.

SEC. 4. The Treasurer of the Provisional Government of the Territory of Arizona, in addition to the fees now allowed by the Constitution, shall receive two and one-half per cent. for all moneys by him disbursed, and shall, previous to entering upon the duties of his office, enter into bonds in the sum of ten thousand dollars, for the faithful performance of his duties.

SEC. 5. It shall be the duty of the Treasurer, as soon as qualified, to demand and receive all moneys and revenues now collected and in the hands of the several officers, which have been collected under the laws of New Mexico, from the people residing within the limits of the Territory of Arizona.

SEC. 6. The Controller shall receive, as compensation for his services, a salary of five hundred dollars per annum, payable quarterly. The duties of the Controller shall be the same (where not otherwise provided for) as the duties prescribed by the laws of New Mexico for Auditor.

CENSUS.

SECTION 1. The Sheriff of each county shall take an enumeration of the inhabitants of the Territory of Arizona, to wit: In the first column, the number of qualified electors; in the second column, all the white males over the age of eighteen years and under forty-five years; in the third column, all the white males under the age of eighteen years; in the fourth column, all the white males over the age of forty-five years; in the fifth column, all the white females; in the sixth column, all the slaves; in the seventh column, all the free white population. That the several Sheriffs shall receive three cents for each white inhabitant, slave or free person of color, enumerated by them. That the said several Sheriffs shall make the returns of the Census of said Territory to the Secretary of State, at least thirty days previous to the first setting of the Legislature of said Territory.

COUNTIES.

SECTION 1. The county of Dona Ana shall comprise all that portion of Territory lying east of the Rio Grande.

SEC. 2. The county of La Mesilla is hereby established with the following boundaries, viz.: The Rio Grande on the east, the Chericahui mountains on the west.

SEC. 3. The county of Ewell comprises all that section of Territory lying between the Chericahui monutains on the east, and the longitudinal line which crosses what is known as the Little Desert, near the the center thereof, on the west.

SEC. 4. The county of Castle Dome comprises all that portion of the Territory lying west of the western boundary of Ewell county.

SEC. 5. It is understood that the above specified boundary-lines of counties above defined, traverse the entire Territory from north to south, crossing the St. Louis and San Francisco Overland Mail route at the points above specified. Provided, that the Rio Grande shall be the permanent boundary between Dona Ana and La Mesilla counties.

SEC. 7. The Governor of the Provisional Government of Arizona shall appoint, in each precinct of each county, a suitable person to superintend the first election for county officers, to be holden on the first Monday of May next. Said Superintendent shall appoint two Judges and two Clerks, who shall conduct said elections according to law, and make due return thereof to the Secretary of State; and elections shall hereafter be holden and conducted as now provided by law.

MODE OF AMENDING CONSTITUTION.

SECTION 1. The Legislature, whenever two-thirds of each House shall deem it necessary, may propose amendments to this Constitution; which proposed amendments shall be duly published in some newspaper, at least sixty days before the election for Representatives, for the consideration of the people; and it shall be the duty of the several election officers, at the next election which shall be thus holden, to open a poll for, and make a return to the Secretary of State, of all those who have voted on such proposed amendments; and if thereupon it shall appear that a majority of all the citizens of this Territory voting for Representatives, have voted in favor of such proposed amendments, and two-thirds of each House of the next Legislature shall, after such election, vote for the same amendment by ayes and noes, they shall be valid to all intents and purposes, as parts of this Constitution.

OFFENSES AGAINST THE PROVISIONAL GOVERNMENT OF ARIZONA.

SECTION 1. That if any person who is a citizen or transient person within the Territory, shall levy war or conspire to levy war against the same, or shall in any way give aid in resisting the officers in executing the laws adopted under the Constitution of the Provisional Government of Arizona, either upon confession in open court or by the testimony of two or more witnesses, such person shall be adjudged guilty of treason, and shall be punished by fine and imprisonment, at the discretion of the court before whom the offender may be arraigned.

SEC. 2. The Schedule adopted on the 5th day of April shall be attached to the Constitution, and form part and parcel of the same.

WHEREAS, For the better protection of life and property against Indians or otherwise; and WHEREAS, in the absence of any legislative action, it is deemed necessary to organize an efficient militia system for the present

protection of our citizens, and until the Legislature shall have more fully organized the militia of the Territory; therefore, be it

Resolved, By this Convention assembled:

First, That every free white male inhabitant over eighteen and under forty-five years of age, who is not disabled by bodily infirmity, shall constitute the militia of this Territory, and perform the duties as hereinafter stated. Provided, that no person exempt from bearing arms under the laws of the United States, shall be compelled to serve.

Second, The militia of this Territory shall be divided into two divisions, as hereinafter provided. The said divisions shall be commanded by one Major-General, whose staff shall consist of one Adjutant General with the rank of Colonel, one Quartermaster with the rank of Captain, and two aids with the rank of 1st Lieutenant.

Third, That the counties of Dona Ana and La Mesilla shall comprise the First Division, to be called the Eastern Division. The counties of Ewell and Castle Dome shall comprise the second division, to be called the Western Division. Each of said divisions shall be divided into two regiments, each composed of two companies, or as many as can be enrolled in the service. Each regiment shall be commanded by one Colonel, one Lieutenant-Colonel and one Major. The staff shall consist of a Quartermaster, Paymaster, and Adjutant with the rank of Lieutenant, and one Surgeon; and shall also have attached to it a Sergeant-Major, one Quartermaster's Sergeant, and one drum and fife Major. Each company shall consist of one Captain, a 1st and 2d Lieutenant, four Sergeants, four Corporals, two musicians, and not less than thirty-two nor more than sixty-four privates. The Governor shall appoint all field officers; the Colonels shall appoint their respective staff officers; each company to elect its own officers. The laws and regulations regulating the militia of the Territory of New Mexico, so far as they may be applicable to this Territory and not inconsistent with the provisions above named and the laws of the United States, shall govern the militia of the Provisional Government of the Territory of Arizona, until otherwise altered or amended by the Legislature of the Territory.

VOLUNTEERS.

The laws regulating the calling out of Volunteers, now in force in the Territory of New Mexico, are declared to be in force in this Territory.

Done in Convention, by the Deputies of the people of the Territory of Arizona, at Tucson, on the 5th day of April, in the year of our Lord one thousand eight hundred and sixty.

In testimony whereof we have hereunto subscribed our names.

JAES A. LUCAS, President.

G. H. OURY, T. M. TURNER, } Secretaries.

DELEGATES:

Epifanio Aguirre,	Edw. McGowan,	Estaban Ochao,
J. Dean Alden,	Pablo Melendrez, 2d.,	Juan Romero,
Sam'l G. Bean,	Theodore J. Miller,	Raphael Ruelas,
Thos. J. Bull,	Thos. J. Mastin,	Palatine Robinson,
Jose MaChavez,	Benj. F. Neal,	Samuel W. Corzens,
J. G. Capron,	Ygnacio Orrantia,	Ramon Sanches,
R. M. Doss,	L. S. Owings,	Phillipe Fiquera,
Sam'l B. Ford,	Wm. S. Oury,	J. J. Thibault,
Jose MaGarcia,	J. L. Poston,	J. Howard Wells,
	W. C. Wordsworth.	